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*Counsel for Defendant NexPoint Advisors, L.P.
and Highland Capital Management Fund Advisors, L.P.*

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:

**HIGHLAND CAPITAL MANAGEMENT, L.P.,

Reorganized Debtor.**

Chapter 11

Case No. 19-34054-sgj11

**MARC S. KIRSCHNER, AS LITIGATION TRUSTEE
OF THE LITIGATION SUB-TRUST,**

Plaintiff,

v.

**JAMES D. DONDERO; MARK A. OKADA; SCOTT
ELLINGTON; ISAAC LEVENTON; GRANT JAMES
SCOTT III; FRANK WATERHOUSE; STRAND
ADVISORS, INC.; NEXPOINT ADVISORS, L.P.;
HIGHLAND CAPITAL MANAGEMENT FUND
ADVISORS, L.P.; DUGABOY INVESTMENT TRUST
AND NANCY DONDERO, AS TRUSTEE OF DUGABOY
INVESTMENT TRUST; GET GOOD TRUST AND
GRANT JAMES SCOTT III, AS TRUSTEE OF GET
GOOD TRUST; HUNTER MOUNTAIN INVESTMENT
TRUST; MARK & PAMELA OKADA FAMILY TRUST
– EXEMPT TRUST #1 AND LAWRENCE TONOMURA
AS TRUSTEE OF MARK & PAMELA OKADA FAMILY
TRUST – EXEMPT TRUST #1; MARK & PAMELA
OKADA FAMILY TRUST – EXEMPT TRUST #2 AND
LAWRENCE TONOMURA IN HIS CAPACITY AS
TRUSTEE OF MARK & PAMELA OKADA FAMILY
TRUST – EXEMPT TRUST #2; CLO HOLDCO, LTD.;
CHARITABLE DAF HOLDCO, LTD.; CHARITABLE
DAF FUND, LP.; HIGHLAND DALLAS FOUNDATION;
RAND PE FUND I, LP, SERIES 1; MASSAND CAPITAL,
LLC; MASSAND CAPITAL, INC.; SAS ASSET
RECOVERY, LTD.; AND CPCM, LLC,**

Adv. Pro. No. 21-03076-sgj

Defendants.

**DEFENDANTS NEXPOINT ADVISORS, L.P. AND
HIGHLAND CAPITAL MANAGEMENT FUND ADVISORS, L.P.’S
MOTION TO DISMISS**

TO THE HONORABLE UNITED STATES DISTRICT COURT JUDGE:

Defendants NexPoint Advisors, L.P. (“NexPoint”) and Highland Capital Management Fund Advisors, L.P. (“HCMFA”) (collectively, “Defendants”) hereby file this *Motion to Dismiss* (the “Motion”), moving to dismiss Counts 9, 11, 12, 13, 15, 16, 17, and 28 in the Complaint and Objection to Claims (Adv. Pro. No. 21-03076-sgj, [Dkt. No. 1]) (the “Complaint”) filed in the above-captioned adversary proceeding (the “Adversary Proceeding”). In support of this Motion, Defendants respectfully state as follows:

Pursuant to Federal Rule of Civil Procedure 12(b)(1) and 12(b)(6), and for the reasons stated in the accompanying *Memorandum of Law in Support of the Motion to Dismiss*, filed contemporaneously herewith and which is incorporated herein by reference, Defendants request the Court dismiss Plaintiff’s Ninth, Eleventh, Twelfth, Thirteenth, Fifteenth, Sixteenth, Seventeenth, and Twenty-Eighth Counts in its Complaint.

WHEREFORE, Defendants respectfully request that the Court grant the Motion in its entirety and grant Defendants such further and other relief to which they are entitled.

Dated: March 23, 2022

Respectfully submitted,

STINSON LLP

/s/ Deborah Deitsch-Perez

Deborah Deitsch-Perez

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**ATTORNEYS FOR DEFENDANTS
NEXPOINT ADVISORS, L.P. AND
HIGHLAND CAPITAL MANAGEMENT
FUND ADVISORS, L.P.**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on March 23, 2022, a true and correct copy of this document was served electronically via the Court's CM/ECF system to the parties registered or otherwise entitled to receive electronic notices in this case.

/s/Deborah Deitsch-Perez

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